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DIVERSIFIED ADJUSTMENT SERVICE, INC.

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7
8 UNITED STATES DISTRICT COURT
9 FOR THE SOUTHERN DISTRICT OF CALIFORNIA
10

11 JOHN E. SUTPHEN,

12 Plaintiff,

13 v.

14 DIVERSIFIED ADJUSTMENT
SERVICE, INC., DOES 1-10 inclusive,
15 Defendants.
16

Case No.: **'16CV2402 BEN JMA**

San Diego County Case No. 37-2016-
00027505-CL-NP-CTL

**DEFENDANT DIVERSIFIED
ADJUSTMENT SERVICE, INC.'S
NOTICE OF REMOVAL TO
FEDERAL COURT**

17
18 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

19 PLEASE TAKE NOTICE that Defendant DIVERSIFIED ADJUSTMENT
20 SERVICE, INC. hereby removes to this Court the state court action described below:

21 1. On, August 11, 2016, an action was commenced in Superior Court, State of
22 California, County of San Diego, entitled JOHN E. SUTPHEN, Plaintiff, v.
23 DIVERSIFIED ADJUSTMENT SERVICE, INC., Defendant, as case number 37-
24 2016-00027505-CL-NP-CTL.

25 2. On or about August 25, 2016, DIVERSIFIED ADJUSTMENT SERVICE,
26 INC., was served with the Summons and Complaint, attached hereto as **Exhibit A**.

27 3. This Court has jurisdiction to hear this case because this action is a civil
28 action of which this Court has original jurisdiction under **28 U.S.C. § 1331**, and is one

1 which may be removed to this Court by defendant pursuant to the provisions of **28**
2 **U.S.C. § 1441(a)** in that it arises under the federal Fair Debt Collection Practices Act
3 **(15 U.S.C. § 1692, et seq.)**.

4 Dated: September 23, 2016

ELLIS LAW GROUP, LLP

5
6 By /s/Amanda N. Griffith

Amanda N. Griffith

Attorney for Defendant,

7 DIVERSIFIED ADJUSTMENT SERVICE, INC.
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EXHIBIT A

COPY**SUMMONS**
(CITACION JUDICIAL)**BY FAX**

SUM-100

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

DIVERSIFIED ADJUSTMENT SERVICE, INC.; DOES 1-10 inclusive

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

JOHN E. SUTPHEN

CLERK OF SUPERIOR COURT
CENTRAL DIVISION (COURT)

2016 AUG 11 AM 11:47

CLERK SUPERIOR COURT
SAN DIEGO COUNTY, CA

NOTICE! You have been sued. The court may decide against you without your being heard (unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory fee for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's fee must be paid before the court will dismiss the case. **AVISO!** Le han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov), en la biblioteca de leyes de su condado o en la corte que le queda más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otras requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a rechazar las costas y los costos extras por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desear el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): Superior Court of San Diego

330 West Broadway,
San Diego, CA 92101CASE NUMBER:
(Número del Caso):

37-2016-00027505-CL-NP-CTL

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Todd M. Friedman, 21550 Oxnard St., Suite 780 Woodland Hills, CA 91367, 877-206-4741

DATE:
(Fecha) AUG 11 2016Clerk, by
(Secretario)

J. Jones

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(SEAL)

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify): **Diversified Adjustment Service, Inc.**

- under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
- ☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
- ☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
- ☐ other (specify):

4. ☐ by personal delivery on (date):

COPY

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Todd M. Friedman, Esq. SBN 216752 Law Offices of Todd M. Friedman 21550 Oxnard St., Suite 780 Woodland Hills, CA 91367 TELEPHONE NO.: 877-206-4741 FAX NO.: 866-633-0228 ATTORNEY FOR: Plaintiffs, JOHN E. SUTPHEN		FOR COURT USE ONLY JUDGE: CLARENCE B. HALL CLERK: TRACY L. HALL 2016 AUG 11 AM 11:47 JLENN SUPERIOR SOUTH SAN DIEGO COUNTY, CA
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 330 West Broadway, MAILING ADDRESS: 330 West Broadway, CITY AND ZIP CODE: San Diego, CA 92101 BRANCH NAME: Central Courthouse		
CASE NAME: JOHN E. SUTPHEN v. DIVERSIFIED ADJUSTMENT SERVICE, INC.		
CIVIL CASE COVER SHEET <input type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input checked="" type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
		CASE NUMBER: 37-2016-00027505-CL-NP-CTL JUDGE: CCPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (45) Other PIPDWD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PIPDWD (23) Non-PIP/DPWD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input checked="" type="checkbox"/> Other non-PIP/DPWD tort (35) Employment <input type="checkbox"/> Wrongful termination (38) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (05) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition for arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): **2**
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: August 9, 2016

Todd M. Friedman

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Form Adopted for Mandatory Use
 Judicial Council of California
 CM-010 (Rev. July 1, 2007)

CIVIL CASE COVER SHEET

Cal. Rules of Court, rules 2.50, 3.220, 3.400-3.403, 3.740,
 Civ. Standards of Judicial Administration, rtd. 3.10
 www.courtinfo.ca.gov

Artesian LegalNet, Inc.
 www.FormsWebNow.com

BY FAX

COPYCLERK OF SUPERIOR COURT
CENTRAL DIVISION

2016 AUG 11 AM 11:47

CLERK SUPERIOR COURT
SAN DIEGO COUNTY, CA

Todd M. Friedman (216752)
 Adrian R. Bacon (280332)
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 21550 Oxnard St., Ste 780
 Woodland Hills, CA 91367
 Phone: 877-206-4741
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 tfriedman@toddfirm.com
 abacon@toddfirm.com
 Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF SAN DIEGO
 LIMITED JURISDICTION

) Case No. '16CV2402 BEN JMA
)
JOHN E. SUTPHEN,) COMPLAINT FOR
) 37-2016-03027505-CL-NP-CTL
Plaintiff,) 1. Violation of Rosenthal Fair Debt
) Collection Practices Act
-vs-) 2. Violation of Fair Debt Collection
) Practices Act
DIVERSIFIED ADJUSTMENT SERVICE,)
INC.; DOES 1-10 inclusive,) (Amount not to exceed \$10,000)
)
Defendant.) Jury Trial Demanded
)
)

BY FAX

I. INTRODUCTION

1. This is an action for damages brought by Plaintiff JOHN E. SUTPHEN for Defendant's violations of the Rosenthal Fair Debt Collection Practices Act, Cal Civ Code §1788, *et seq.* (hereinafter "RFDCPA") and the Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et seq.* (hereinafter "FDCPA"), both of which prohibit debt collectors from engaging in abusive, deceptive, and unfair practices.

II. PARTIES

2. Plaintiff, JOHN E. SUTPHEN. ("Plaintiff"), is a natural person residing in SAN DIEGO County in the state of California, and is a "consumer" as defined by the FDCPA, 15 U.S.C. §1692a(3) and is a "debtor" as defined by Cal Civ Code §1788.2(h).

8 4. At various and multiple times prior to the filing of the instant complaint,
9 including within the one year preceding the filing of this complaint, Defendant contacted
10 Plaintiff regarding an alleged debt.

15 6. In response to Defendant's letters, Plaintiff requested validation of the alleged
16 debt. However, Defendant failed to provide Plaintiff with legitimate validation of the alleged
17 debt from Plaintiff's late account with Sprint. Defendant's actions caused tremendous
18 emotional stress to Plaintiff.

22 8. Defendant's conduct violated the FDCPA and RFDCPA in multiple ways,
23 including but not limited to:

- ### Complaint - 2

- c) Causing Plaintiff's telephone to ring repeatedly or continuously with intent to harass, annoy or abuse Plaintiff (§ 1692d(5));
- d) Communicating with Plaintiff at times or places which were known or should have been known to be inconvenient for Plaintiff (§1692c(a)(1)) ;
- e) Engaging in conduct the natural consequence of which is to harass, oppress, or abuse Plaintiff (§ 1692d);
- f) Falsely representing the character, amount, or legal status of Plaintiff's debt (§ 1692e(2)(A));
- g) Using false representations and deceptive practices in connection with collection of an alleged debt from Plaintiff (§ 1692e(10));
- h) Falsely representing or implying that nonpayment of Plaintiff's debt would result in the seizure, garnishment, attachment, or sale of Plaintiff's property or wages, where such action is not lawful or Defendant did not intend to take such action (§ 1692e(4));
- i) Threatening to take an action against Plaintiff that cannot be legally taken or that was not actually intended to be taken (§ 1692e(5));
- j) Threatening Plaintiff that nonpayment of Plaintiff's debt may result in the arrest of Plaintiff or the seizure, garnishment, attachment or sale of any property or the garnishment or attachment of wages of Plaintiff, where such action was not in fact contemplated by the debt collector and permitted by the law (Cal Civ Code § 1788.10(e));
- k) Threatening to take an action against Plaintiff that is prohibited by § 1788 of the California Civil Code (Cal Civ Code § 1788.10(f));
- l) Falsely representing that a legal proceeding has been, is about to be, or will be instituted unless payment of a consumer debt is made (Cal Civ Code § 1788.13(j));

9. As a result of the above violations of the FDCPA and RFDCPA, Plaintiff suffered and continue to suffer injury to Plaintiff's feelings, personal humiliation, embarrassment, mental anguish and emotional distress, and Defendant is liable to Plaintiff for Plaintiff's actual damages, statutory damages, and costs and attorney's fees.

1 **COUNT I: VIOLATION OF ROSENTHAL**
2 **FAIR DEBT COLLECTION PRACTICES ACT**

3 10. Plaintiff reincorporates by reference all of the preceding paragraphs.

4 11. To the extent that Defendant's actions, counted above, violated the RFDCPA,
5 those actions were done knowingly and willfully.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant
8 for the following:

- 9 A. Actual damages;
10 B. Statutory damages for willful and negligent violations;
11 C. Costs and reasonable attorney's fees; and
12 D. For such other and further relief as may be just and proper.

13 **COUNT II: VIOLATION OF FAIR DEBT**
14 **COLLECTION PRACTICES ACT**

15 12. Plaintiff reincorporates by reference all of the preceding paragraphs.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant
18 for the following:

- 19 A. Actual damages;
20 B. Statutory damages;
21 C. Costs and reasonable attorney's fees; and,
22 D. For such other and further relief as may be just and proper.

23 **PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY**

24 Respectfully submitted this 9th day of August, 2016.

25 By: 

26 Todd M. Friedman, Esq.
27 Law Offices of Todd M. Friedman, P.C.
28 Attorney for Plaintiff

CERTIFICATE OF SERVICE

I, Roxy Chipak, declare:

I am a citizen of the United States, am over the age of eighteen years, and am not a party to or interested in the within entitled cause. My business address is 740 University Avenue, Suite 100, Sacramento, CA 95825.

On September 23, 2016, I served the following document(s) on the parties in the within action:

DEFENDANT DIVERSIFIED ADJUSTMENT SERVICE, INC.'S NOTICE OF REMOVAL TO FEDERAL COURT

X	VIA ELECTRONIC SERVICE: The above-described document(s) will be delivered electronically through the Court's ECF/PACER electronic filing system, as stipulated by all parties to constitute personal service, to the following:
X	BY MAIL: I am familiar with the business practice for collection and processing of mail. The above-described document(s) will be enclosed in a sealed envelope, with first class postage thereon fully prepaid, and deposited with the United States Postal Service at Sacramento, CA on this date, addressed as follows:

Todd Friedman
Law Offices of Todd Friedman
21550 Oxnard Street, Suite 780
Woodland Hills, CA 91367

Attorneys for Plaintiff,
JOHN E. SUTPHEN

I declare under penalty of perjury under the laws of the State of California that the foregoing is a true and correct statement and that this Certificate was executed on September 23, 2016.

By: _____

Roxy Chipak